

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

Jun 11, 2020

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

DIONTE T. WEBB,

Plaintiff,

v.

STEPHEN CINCLAIR, KIM  
GUFHOLM, GIANG LY TRAN,  
JOSHUA WOLFF,

Defendants.

No. 2:20-cv-00067-SMJ

**ORDER DISMISSING  
COMPLAINT**

Plaintiff Diente T. Webb, a federal prisoner at the Federal Correctional Institution in Sheridan, Oregon, is proceeding *pro se* and *in forma pauperis*. Defendants have not been served. By Order filed February 26, 2020, the Court advised Plaintiff of the deficiencies of his complaint and directed him to amend or voluntarily dismiss within sixty days. ECF No. 7. The Court cautioned Plaintiff that if he failed to comply with the directives in the Order, the Court would dismiss his Complaint. As of the date of this Order, Plaintiff has filed no response.

As the Court previously explained, Plaintiff's claim for monetary damages for allegedly having been unlawfully held beyond the term of his community custody, in the absence of any facts indicating his sentence had been invalidated by

1 a state tribunal or by means of a federal habeas corpus proceeding, is barred by  
2 *Heck v. Humphrey*, 512 U.S. 477, 486–87 (1994). To the extent Plaintiff sought his  
3 release from incarceration and to enjoin his extradition and/or a detainer to serve an  
4 allegedly unlawful term of community custody, his claims sounded in habeas  
5 corpus. *See Preiser v. Rodriguez*, 411 U.S. 475, 487-90 (1973). Furthermore, the  
6 Court found his conclusory allegation of kidnapping did not “plausibly give rise to  
7 an entitlement to relief.” *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009). Plaintiff did  
8 not comply with the Court’s Order and has filed nothing further in this action.

9 Therefore, for the reasons set forth above and in the Order to Amend or  
10 Voluntarily Dismiss, ECF No. 7, the Complaint is dismissed for failure to state a  
11 claim upon which relief may be granted under 28 U.S.C. §§ 1915A(b)(1) and  
12 1915(e)(2).


13 Accordingly, **IT IS HEREBY ORDERED:**

- 14 **1.** The Complaint, **ECF No. 1**, is **DISMISSED WITHOUT**  
15 **PREJUDICE** to Plaintiff pursuing available state court remedies.
- 16 **2.** Based on the Court’s reading of *Washington v. Los Angeles County*  
17 *Sheriff’s Department*, 833 F.3d 1048 (9th Cir. 2016), this dismissal  
18 will NOT count as a “strike” under 28 U.S.C. § 1915(g).
- 19 **3.** The Clerk’s Office is directed to **ENTER JUDGMENT** and **CLOSE**  
20 this file.

1           4.     The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal  
2                   of this Order would not be taken in good faith.

3           **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and  
4 provide a copy to *pro se* Plaintiff at his last known address.

5           **DATED** this 11<sup>th</sup> day of June 2020.

6                     
7                   SALVADOR MENDOZA, JR.  
                    United States District Judge